

FILED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

2007 NOV -9 AM 9:49

JUDITH K. ROGAN, individually
and as Trustee of the
Judith K. Rogan Revocable Trust

Plaintiff,

v.

UNITED STATES OF AMERICA
and DEXIA CREDIT LOCAL, f/k/a
DEXIA PUBLIC FINANCE and
CREDIT BANK and CREDIT
LOCAL DE FRANCE,

Defendants.

STEPHEN J. DING, CLERK
U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF INDIANA

No.

2:07 CV 403PS

Formerly case No. 64D05-0710-PL-
10161, Superior Court, Porter County,
Indiana.

NOTICE OF REMOVAL OF A CIVIL ACTION

To: Linda Mckinney
Court Administrator
Porter County
16 Lincolnway, Suite 427
Valparaiso, Indiana 46383

Hon. Mary R. Harper
Porter Superior Court
16 Lincolnway, Suite 313
Valparaiso, Indiana 464383

Scott Mendeloff
Sidley & Austin LLP
One South Dearborn Street
Chicago, Illinois 60603

Alison Fox
Baker & Daniels LLP
First Bank Building, Suite 250
205 West Jefferson Boulevard
South Bend, IN 46601

Michael J. O'Rourke
O'Rourke, Kattan & Moody
161 N. Clark Street, Suite 2230
Chicago, Illinois 60601

The United States of America, by its attorney, David Capp, Acting United States Attorney for the Northern District of Indiana, submits this notice of removal of the above-captioned civil action from the Porter Superior Court, Valparaiso, Illinois, to the United States District Court, Northern District of Indiana, pursuant to 28 U.S.C. § 1442(a), and in support of that notice states the following:

1. The United States has been made a party to a civil action now pending in Porter Superior Court in Valparaiso, Indiana captioned Judith K. Rogan, individually and as Trustee of the Judith K. Rogan Revocable Trust v. The United States of America and Dexia Credit Local, f/k/a/ Dexia Public Finance and Credit Bank and Credit Local de France, No. 64D05-0710-PL-10161.

2. The state court action is a refiling of a previously dismissed federal suit captioned Judith K. Rogan, individually and as Trustee of the Judith K. Rogan Revocable Trust v. The United States of America and Dexia Credit Local, f/k/a/ Dexia Public Finance and Credit Bank and Credit Local de France, No. 2:2007-CV-00280 RM (N.D. Ind.). The federal suit was dismissed on October 29, 2007.

3. If the United States has waived its sovereign immunity to be sued, such waiver would be pursuant to 28 U.S.C. § 2410.

4. This case is therefore removable to the United States District Court for the Northern District of Indiana pursuant to 28 U.S.C. §§ 1442 and 1444, both of which allow a state court action against the United States to be removed to the federal district court in which the state action is pending.

5. Pursuant to 28 U.S.C. § 1446(d), the state court shall proceed no further on Judith K. Rogan's complaint unless and until the case is remanded.

6. A copy of the process and pleadings served upon the United States of America are attached hereto.

WHEREFORE, the action now pending in the Porter Superior Court in Valparaiso, Indiana is hereby removed to this court pursuant to 28 U.S.C. §§ 1442 and 1444.

Respectfully submitted,

DAVID CAPP
Acting United States Attorney

By: *Linda A. Wawzenski*
LINDA A. WAWZENSKI
Special Assistant United States Attorney
U.S. Attorney's Office
219 South Dearborn Street
Chicago, IL 60604
(312) 353-1994
Fax: (312) 886-4073

CERTIFICATE OF SERVICE

LINDA A. WAWZENSKI hereby certifies that on November 9, 2007, she caused a copy of:
NOTICE OF REMOVAL OF A CIVIL ACTION to be sent by Federal Express to Linda Mckinney, Court Administrator, Porter County, 16 Lincolnway, Suite 427, Valparaiso, Indiana 46383, and Alison Fox, Baker & Daniels LLP, First Bank Building, Suite 250, 205 West Jefferson Boulevard, South Bend, IN 46601 and Via Hand Delivery to Michael J. O'Rourke, O'Rourke, Kattan & Moody, 161 N. Clark Street, Suite 2230, Chicago, Illinois 60601 and Scott Mendeloff, Sidley & Austin LLP, One South Dearborn Street, Chicago, Illinois 60603 and Via Facsimile (219) 465-3647 to Hon. Mary R. Harper, Porter Superior Court, 16 Lincolnway, Suite 313, Valparaiso, Indiana 464383.

A handwritten signature in cursive script, reading "Linda A. Wawzenski", is written over a horizontal line.

LINDA A. WAWZENSKI
Special Assistant United States Attorney

JS 44

(Rev 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JUDITH K. ROGAN, individually and as Trustee of the Judith K. Rogan Revocable Trust

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Alison G. Fox, Baker and Daniels, LLP, First Bank Building, Suite 250, 205 W. Jefferson Blvd. South Bend, Indiana 46601 Tel.: 574-239-1988

DEFENDANTS

THE UNITED STATES OF AMERICA and DEXIA CREDIT LOCAL f/k/a DEXIA PUBLIC FINANCE and CREDIT BANK and CREDIT LOCAL DE FRANCE

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT

LAND INVOLVED.

Attorneys (If Known)

Joseph S. Reid, AUSA

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---------------------------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury--- Med. Malpractice <input type="checkbox"/> 365 Personal Injury--- Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input checked="" type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing / Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
☒ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify) _____
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Removed under Title U.S.C. 1444 and 1442

VII. REQUESTED IN COMPLAINT

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No

VIII. RELATED CASE(S)

(See Instructions)

DATE

11-09-07

SIGNATURE OF ATTORNEY OF RECORD

Joseph S. Reid, AUSA

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPROX

JUDGE

MAG

STATE OF INDIANA)
)
 COUNTY OF PORTER) SITTING AT VALPARAISO, INDIANA

NOV - 2 2007

JUDITH K. ROGAN, individually and as Trustee)
 of the Judith K. Rogan Revocable Trust,)
 Plaintiff,)

-vs-

CAUSE NO. 64005-0710-PL-10161

THE UNITED STATES OF AMERICA and)
 DEXIA CREDIT LOCAL f/k/a DEXIA PUBLIC)
 FINANCE and CREDIT BANK and)
 CREDIT LOCAL DE FRANCE,)
 Defendants.)

PORTER CIRCUIT SUPERIOR COURT - 5
 VALPARAISO, IN 46383
 336

THE STATE OF INDIANA TO RESPONDENT: THE UNITED STATES OF AMERICA
 c/o United States Attorney for the Northern District of Indiana
 5400 Federal Plaza
 Hammond, IN 46320

You have been sued by the person(s) identified as "Plaintiff" in the Court stated above.

The nature of the suit against you is stated in the COMPLAINT which is attached to this SUMMONS. It also states the demand which the Plaintiff has made against you.

You must either personally or by your attorney file your written answer to the COMPLAINT with the Clerk within twenty (20) days commencing the day after this SUMMONS and the COMPLAINT were personally served upon you or your agent or left for you by the Sheriff or other process server.

In the event the SUMMONS and COMPLAINT were left for you and you then receive by first class mail (not certified) a copy of the SUMMONS alone, this mailing is merely confirmation that the SUMMONS and COMPLAINT were previously left for you. You should not consider the date on which you receive the mailed SUMMONS as the commencement date for the time period allowed for your answer. Rather, the time period allowed for your written answer commences on the date when the SUMMONS and COMPLAINT were first personally served upon you or your agent or left for you by the Sheriff or other process server.

However, if you or your agent first received the SUMMONS and the COMPLAINT by certified mail, you have twenty-three (23) days from the date of receipt to file your written answer with the Clerk.

If you fail to answer the COMPLAINT of the Plaintiff within the times prescribed herein, judgment may be entered against you for what the Plaintiff has demanded.

If you have a claim against the Plaintiff arising from the same transaction or occurrence, you must assert such claim in writing together with your written answer.

The following manner of service is hereby designated: **Certified Mail**

Attorney for Plaintiff:
 Alison G. Fox
 BAKER & DANIELS LLP
 First Bank Building, Suite 250
 205 W. Jefferson Blvd.
 South Bend, IN 46601
 Tel. No.: (574) 239-1988

Date: 10-31-07
 DALE BREWER
 CLERK OF THE PORTER CIRCUIT AND
 SUPERIOR COURTS

By: *D. Vespero* Deputy Clerk

PREPARATION DATA:

All Summons are to be prepared in triplicate with the original of each to be placed in the Court file with two copies available for service. If service is by certified mail a properly addressed envelope shall be provided for each Respondent. Certified mail labels and return receipts must also be furnished for each mailing and the cause number must appear on each return receipt, which shall be returnable to the Clerk at the address of the Court. (Form: CS 1/97)

File: 00056484.WPD

CLERK'S CERTIFICATE OF MAILING

I hereby certify that of the 31 day of Oct, 2007, I mailed a copy of this SUMMONS and a copy of the COMPLAINT to the Respondent, above named, by Cert mail, requesting a return receipt, at the address furnished by the Plaintiff.

DALE BREWER
CLERK OF THE PORTER CIRCUIT AND SUPERIOR COURTS

Dated: 10-31-07, 2007. By: [Signature]
Deputy Clerk

RETURN ON SERVICE OF SUMMONS BY MAIL

I hereby certify that the attached return receipt was received by me showing the that the SUMMONS and a copy of the COMPLAINT mailed to Respondent, _____, was accepted by the Respondent on the _____ day of _____, 2007.

I hereby certify that the attached return receipt was received by me showing that the SUMMONS and a copy of the COMPLAINT was returned not accepted on the _____ day of _____, 2007.

DALE BREWER
CLERK OF THE PORTER CIRCUIT AND SUPERIOR COURTS

Dated: _____, 2007. By: _____
Deputy Clerk

RETURN OF SERVICE OF SUMMONS BY SHERIFF

I hereby certify that I have served the within SUMMONS:

1. By delivering on _____, 2007, a copy of this SUMMONS, a copy of the COMPLAINT and all other materials filed the same date to each of the within named person(s).
2. By leaving on _____, 2007, for each of the within named person(s) _____ a copy of the SUMMONS, a copy of the COMPLAINT and all other materials filed the same date at the respective dwelling house or usual place of abode of _____ in _____, Indiana, with a person of suitable age and discretion residing within, whose usual duties or activities include prompt communication of such information to the person served, or by otherwise leaving such process thereat, and by mailing a copy of the SUMMONS without the COMPLAINT to the said named person(s) at the address listed herein.
3. This SUMMONS came to hand this date, _____, 2007. The within named _____ was not found in my bailiwick this date, _____, 2007
ALL DONE IN PORTER COUNTY, INDIANA.

SHERIFF OF PORTER COUNTY, INDIANA

By: _____

SERVICE ACKNOWLEDGED

A copy of the within SUMMONS, a copy of the COMPLAINT and all materials filed the same dated attached thereto were received by me at _____ in _____, Indiana, on this date, _____, 2007.

Signature of Respondent: _____

STATE OF INDIANA) IN THE PORTER SUPERIOR COURT
COUNTY OF PORTER) SITTING AT VALPARAISO, INDIANA

JUDITH K. ROGAN, individually and as Trustee)
of the Judith K. Rogan Revocable Trust,)
Plaintiff,)

-vs-

CAUSE NO. 64105-0710-PL-10161

THE UNITED STATES OF AMERICA and)
DEXIA CREDIT LOCAL f/k/a DEXIA PUBLIC)
FINANCE and CREDIT BANK and)
CREDIT LOCAL DE FRANCE,)
Defendants.)

NOV - 2 2007

APPEARANCE BY ATTORNEY IN CIVIL CASE

Party Classification: Initiating • Responding ○ Intervening ○

1. The undersigned attorney and all attorneys listed on this form now appear in this case for the following party member(s): **Judith K. Rogan, individually and as Trustee of the Judith K. Rogan Revocable Trust**

2. Applicable attorney information for service as required by Trial Rule 5(b)(2) and for case information as required by Trial Rules 3.1 and 77(B) is as follows:

Name: ALISON G. FOX Atty. No: 21321-71A
Address: First Bank Building, Suite 250 Phone: (574) 239-1988
205 W. Jefferson Blvd.
South Bend, IN 46601 FAX: (574) 472-4588
EMAIL: ALISON.FOX@BAKERB.COM

3. There are other party members: Yes ○ No •

4. If first initiating party filing this case, the Clerk is requested to assign this case the following Case Type under Administrative Rule 8(b)(3): PL

5. Will Plaintiff accept service by FAX: Yes ○ No •

6. This case involves support issues. Yes ○ No •

7. There are related cases: Yes ○ No •

8. This form has been served on all other parties.
Certificate of Service is attached: Yes ○ No •

PORTER SUPERIOR/CIRCUIT COURT
ENTRY FORM

NOV - 2 2007

Judith K. Rogan
Plaintiff,

VS.

CAUSE NO. 6405-0710-PL-10161

The United States of America,
et al
Defendant,

FILED
IN OPEN COURT

OCT 30 2007

CCS Summary as Follows:

The decision of the Court should be summarized as follows in the Chronological Case Summary under this cause number:

May R. Hagan
Porter Circuit and Superior Court

Plaintiff files Complaint, Summons, Appearance Form,
Motion for Preliminary Injunction and Memorandum in Support
thereof. Hearing set for November 14, 2007 at 9:30 am
Counsel to provide service.
Alison G. Fox

Signature of Moving Counsel

Name and Address:

Alison G. Fox
First Bank Building, Suite 205
205 W. Jefferson
Telephone: Smith Bend, IN

Attorney I.D. No.:

Attorney for: Plaintiff

Service to be by:

Attorney ☒
Court ☐
Clerk ☐

For Court Use: RJO

Yes ☐ No ☐

APPROVED: _____